

**REMARKS/ARGUMENTS**

**AMENDMENTS**

1. Claim 2 of the application has been amended to include the limitations of the rack being a rigid rack having opposing sidewalls, the bottom and the back each having a plurality of holes through which fluid and debris may pass, the additional limitation of a pair of horizontally disposed side flanges attached to the tops of the opposing side walls each of said opposing flanges having at least one hole therein has also been added to the application as well as the additional limitation that the cassettes each have a hinged lid. Support for these amendments is found in paragraphs 11, 12, 13, 35, 36, 38 of the application as filed as well as figures 1-7, 8, 10 and 12. These amendments add no new matter to the application and acceptance of these amendments is respectfully requested.
2. Claim 3 of the application has been canceled.
3. Claim 4 of the application has been amended to depend from claim 2 instead of claim 3 and to further include the limitations of the top handle having a pair of opposing and downwardly extending plates having upwardly extending pins configured to interfit underneath said opposing flanges with the upwardly extending engagement pins interfitting within the holes located within the flanges. Support for this amendment is found in paragraphs 19, 49 and figures 9,10, and 12 of the application as filed. These amendments add no new material to the application and acceptance of these amendments is respectfully requested.
4. Claim 5 has been amended to depend from claim 2 instead of claim 3.
5. Claim 6 has been canceled from the application.
6. Claim 7 has been amended to depend from claim 2 instead of from claim 6.
7. Claim 8 has been amended to depend from claim 7 instead of from claim 6.
8. Claim 9 has been amended to depend from claim 7 instead of from claim 6.
9. Claim 10 has been amended to depend from claim 7 instead of from claim 6.
10. Claim 11 has been amended to depend from claim 7 instead of from claim 6.
11. Claim 18 has been canceled from the application.

12. None of these amendments add any new matter to the specification and acceptance of these amendments is respectfully requested.

***Claim Rejections - 35 USC § 102***

13. The Examiner has rejected claims 2, 3-4 and 18 under 35 USC §102(b) as being anticipated by Temple, U.S. Patent No. 2,680,522.

Claim 2 has been amended to include the limitations that the rack is a rigid rack; the front, top and back of the transport rack have pairs of opposing side walls with holes therein; the rack having a pair of horizontally disposed flanges attached to the tops of the opposing side walls, each of these opposing flanges having at least one hole and that the cassettes which are included within this claim include a hinged top, and are configured in size and shape to receive and hold dental or orthodontic tools.

These features are not shown or described in the Temple reference. The Temple reference is merely a description of a relatively lightweight, foldable display frame, which contains hingedly interconnected portions so as to allow the display rack to be alternatively opened to hold cartons of cigarettes, or to be folded flat for shipping or storage. See Temple col. 1 lines 20-23. The Temple device is not rigid, does not contain any flanges which contain holes, does not teach the presence of cassettes that include hinged lids that are configured to fit within the rack itself. Applicant respectfully submits that in as much as the Temple reference fails to teach each and every feature which is set forth in the amended claim 2 of the application that such a rejection of this claim as anticipated under 35 USC §102 is improper, and withdrawal of such a rejection of claim 2 and all claims which depend from claim 2 should take place.

In addition to the aforementioned reasons for withdrawal of the rejections of claims 2, 3-4, and 18, Applicant brings the Examiner's attention to the current amendments to the application wherein claims 3 and 18 have been canceled from the application, claim 4 has been amended to include the limitations that the rack of the present invention includes a top handle having a horizontally oriented rail adapted to receive and vertically hold a plurality of dental or orthodontic pliers. This top handle also including a pair of opposing and downwardly extending plates having upwardly extending pins configured to interfit underneath the opposing flanges of the rack with the upwardly extending engagement pins interfitting within the holes of the flanges.

The Temple reference does not teach or describe any such features. Therefore, in addition to the reasons listed above with regard to claim 2, Applicant respectfully submits that claim 4 as presently amended is not anticipated by the Temple reference and respectfully requests withdrawal of this grounds for rejection.

14. The Examiner has rejected claims 2, 3-4 under 35 USC §102(b) as being anticipated by Ochs, U.S. Patent No. 3,007,708.

Claim 2 has been amended to include the limitations of the front, top and back of the transport rack having pairs of opposing side walls with holes therein, a pair of horizontally disposed flanges attached to the tops of the opposing side walls, each of these opposing flanges having a plurality of holes through which fluid and debris may pass. The claim has also been amended to include the limitations of a pair of horizontally disposed side flanges attached to the tops of the opposing side walls each of the opposing flanges having at least one hole therein and a further requirement that the cassettes which were previously included within this claim include a hinged top, and are configured in size and shape to receive and hold dental or orthodontic tools. Claim 2 has also been amended to specifically recite that the rack of the present invention is a rigid rack.

These features are not shown or described in the Ochs reference. This reference does not teach the presence of any flanges which contain holes, nor does this device teach the presence of cassettes that include hinged lids which are configured to fit within the rack itself. Applicant respectfully submits that in as much as the Ochs reference fails to teach each and every feature which is set forth in the amended claim 2 of the application, that such a rejection of this claim as anticipated under 35 USC §102 is improper, and withdrawal of such a rejection of claim 2 and all claims which depend from claim 2 should take place.

In addition to the aforementioned reasons for withdrawal of the rejections of claims 2, 3 and 4, Applicant brings the Examiner's attention to the current amendments wherein claim 3 has been canceled from the application and wherein claim 4 has been amended to include the limitations that the rack of the present invention includes a top handle having a horizontally oriented rail adapted to receive and vertically hold a plurality of dental or orthodontic pliers. This top handle also including a pair of opposing and downwardly extending plates having upwardly extending pins configured to interfit underneath the opposing flanges of the rack with the upwardly extending engagement pins interfitting within the holes of the flanges.

The Ochs reference does not teach or describe any such features. Therefore, in addition to the reasons listed above with regard to claim 2, Applicant respectfully submits that claim 4 as presently amended is further not anticipated by the Temple reference and respectfully requests withdrawal of this grounds for rejection.

***Claim Rejections 35 USC §103***

15. The Examiner has rejected claims 6-7, 9-10 and 14 under 35 USC §103(a) as being unpatentable over Temple, US Patent No. 2,680,522 as applied to claims 2 and 6 and further in view of Spencer, et al., US Patent No. 5,759,502.

Applicant has amended these claims and maintains that these claims as currently amended are not rendered obvious in view of the combination cited by the Examiner. As described above, claim 2 from which claim 7 directly depends and upon which claims 9, 10 and 14 depend indirectly, has been amended to include a variety of features and limitations, which are not found in the Temple reference. Furthermore, even if the Temple reference and the Spencer reference are combined, this combination fails to teach or include all of the features which are set forth in the claims of the application as currently amended.

As a preliminary matter, there is no motivation or suggestion to combine the Temple and the Spencer references. There is no suggestion or motivation to combine the lightweight foldable rack taught in the Temple reference with the relatively heavy boxes which are taught in the Spencer reference. By its very nature, the configuration of the boxes taught in the Spencer reference are too heavy for use with the rack configuration which is set forth in the Temple reference. The racks taught in the Temple reference would collapse if and when materials such as the containers shown in the Spencer device were to be placed upon it. This is particularly true if the boxes which are taught in the Spencer reference are filled with the tools which they are designed to hold. The racks taught in the Temple reference simply lack the structural integrity to withstand the loads which would result from the containers taught in the Spencer device being placed upon it. Because of these problems there is no motivation or suggestion to combine the teachings of the Temple reference with the teachings of the Spencer reference. As a result, Applicant respectfully submits that the combination which has been cited by the Examiner is not suggested by the prior art and therefore requests that this rejection be withdrawn.

Even if combined, this combination does not teach or include all of the features of the present invention as they are set forth in these claims as they are currently amended.

In the amendments to the application, which are presently set forth in this response, claim 6 has been canceled. Claim 2 from which claims 6-7, 9-10 and 14 depend has been amended to include a variety of features which are not included in either the Temple or the Spencer references or in their combination. In particular, this combination of references fails to teach the presence of horizontally disposed side flanges attached to the tops of the opposing sidewalls of the transport rack, each of these flanges having at least one hole therein. In as much as the combination cited by the Examiner is not suggested by the references and these references even

if combined fail to include all of the claimed features of the invention, these claims are not obvious modifications of the Spencer and Temple references.

16. The Examiner has rejected claims 15-16 under 35 USC 103(a) as being unpatentable over Temple as applied to claim 2 and further in view of Spencer et al.

Applicant has amended these claims and maintains that these claims as currently amended are not rendered obvious in view of the combination cited by the Examiner. As is described above, claim 2 of the application has been amended to contain a variety of features which are not included in the Temple or the Spencer references or in the combination thereof. In particular this combination of references fails to teach the presence of horizontally disposed side flanges attached to the tops of the opposing sidewalls of the transport rack, each of these flanges having at least one hole therein. Claims 15 and 16 each depend from claim 2. In as much as claim 2 includes these additional features which are not taught or described in the combination cited by the Examiner, claims 15 and 16 are not rendered obvious in view of the references cited by the Examiner and Applicant respectfully requests that the Examiner withdraw the rejections of these claims as being obvious.

17. The Examiner has rejected claim 17 under 35 USC 103(a) as being unpatentable over Temple as applied to claim 2 and in further view of Chen, U.S. Patent No. 5,154,611.

As discussed previously, claim 2 as amended includes various features which are not present in the combination of the Temple and the Chen references. In particular this combination of references fails to teach the presence of horizontally disposed side flanges attached to the tops of the opposing sidewalls of the transport rack, each of these flanges having at least one hole therein. In as much as the combination cited by the Examiner fail to include all of the claimed features of the invention, these claims are not obvious modifications of the combination of the Chen and Temple references.

18. The Examiner has rejected claim 5 under 35 USC 103(a) as being unpatentable over Temple as applied to claim 3 and in further view of Rouse and Jerge.

Applicant respectfully disagrees with the Examiner's rejection of this claim for the following reasons: As a first matter, claim 2 from which claim 5 depends has been amended and as a result, now contains a variety of additional features namely, horizontally disposed side flanges attached to the tops of the opposing side walls of the transport rack, each of these flanges having at least one hole therein. The combination cited by the Examiner fails to include all of these newly added features.

In addition, the combination cited by the Examiner fails to include a variety of other features which are set forth in this claim. The Examiner has rejected this claim on the grounds that the Rouse reference teaches a *side handle* that includes a pair of horizontally disposed insertion rails each having an *outwardly* extending engagement connection, insertion rails attached to a front rail downwardly extending lever handle attached to the front rail and the insertion rails designed for insertion into the rack.

However, a close review of the Rouse reference in fact shows that the item identified by the Examiner as a side handle, Fig 2:11, is in fact a cover for the tops of the dental burrs that are placed within the burr block holder. See Col 3 lines 42-61. This cover is connected by a pair of side members which each contain *inwardly* extending faceted boss which has a pair of *inwardly* extending teeth which move inward therefrom. See Col. 4 lines 8-15. The Rouse patent simply does not include a side handle with outwardly extending engagement connections as the Examiner has alleged. Therefore, the combination of the Rouse reference together with the Jerge reference and the Temple reference, simply fails to include each and every feature that is set forth in claim 5.

In addition to this combination lacking all of the necessary features of the present invention, the Rouse reference also teaches away from the use of an engagement pin as is described in the Jerge patent and thus, the combination of the Rouse reference with the Jerge patent which has been suggested by the Examiner is not an obvious modification.

The Rouse reference teaches that the connection of the burr block cover to the burr block should take place with few additional parts and without the use of additional fastening devices. See Rouse Col. 4 lines 44-45. Therefore, the Examiner's suggestion that it would have been obvious for a person of skill in the art to substitute the engagement pin of the Jerge reference for the engagement connection portions of the Rouse references is not supported and is specifically taught away from by the Rouse patent itself. In as much as this combination is taught away from by the Rouse reference, Applicant respectfully submits that the combination of the Rouse reference with the Jerge reference is not taught or suggested and that in fact the invention taught and described in claim 5 is not rendered obvious in view of the references cited by the examiner. Applicant therefore respectfully requests withdrawal of the rejection of this claim as being obvious.

19. The Examiner has rejected claim 8 under 35 USC §103(a) as being unpatentable over Temple in view of Spencer as applied to claim 6 and in further view of Kudla, et al.

As has been discussed previously, claim 2 from which claim 8 depends via claim 7, has been amended to include a variety of features which are not included in this combination which has been suggested by the Examiner. Specifically, claim 2 has been amended to include the

limitations of horizontally disposed side flanges attached to the tops of the opposing side walls of the transport rack, each of these flanges having at least one hole therein. The combination cited by the Examiner does not include these features.

20. The Examiner has rejected claims 11-12 under 35 USC 103(a) as being unpatentable over Temple in view of Spencer, et al., as applied to claim 6 and in further view of Wittrock, et al.

Applicant respectfully disagrees with the Examiner's rejection for the following reasons. As a first matter, claim 2 from which claims 11-12 depend has been amended and as a result now contains a variety of additional features namely, horizontally disposed side flanges attached to the tops of the opposing side walls of the transport rack, each of these flanges having at least one hole therein. The combination cited by the Examiner fails to include these features and thus a *prima facie* case of obviousness has not been made. In addition, Applicant reincorporates by reference its rejections related to the lack of motivation or suggestion to combine the Temple and Spencer references.

21. The Examiner has rejected claim 13 under 35 USC 103(a) as being unpatentable over Temple in view of Spencer, Wittrock and in further view of Dabich.

Applicant respectfully disagrees with the Examiner's rejection for the following reasons. As a first matter, claim 2 from which claim 13 depends has been amended and as a result now contains the requirement that horizontally disposed side flanges are attached to the tops of the opposing side walls of the transport rack. The combination suggested by the Examiner fails to include this provision and as a result a *prima facie* case of obviousness has not been made.

Furthermore, the inclusion of Dabich is improper. The Dabich reference is non-analogous prior art, and its inclusion would not be motivated or suggested to a person of skill in the art. The law in this area is clear, only references from arts analogous to that of the claimed invention may comprise prior art to the invention. A reference will only be analogous art if: 1) it is from the same field of endeavor as the claimed invention; or 2) it is from a different field of endeavor, but the reference is reasonably pertinent to the particular problem solved by the inventor. In re Oetiker, 977 F.2d 1443, 1446-47 (Fed. Cir. 1992); In re Clay, 966 F.2d 656, 658-89 (Fed. Cir. 1992).

In the In re Clay case, the subject claims were directed to a process which improved removal of oil products from storage tanks. The Examiner in that case cited a patent directed to improving production of oil from underground formations. The Federal Circuit held that the cited patent was not analogous art even though the cited patent and subject application both related to the oil industry.

"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992). ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993).

In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992) (Applicant claimed an improvement in a hose clamp which differed from the prior art in the presence of a preassembly "hook" which maintained the preassembly condition of the clamp and disengaged automatically when the clamp was tightened. The Board relied upon a reference, which disclosed a hook and eye fastener for use in garments, reasoning that all hooking problems are analogous. The court held the reference was not within the field of applicant's endeavor, and was not reasonably pertinent to the particular problem with which the inventor was concerned because it had not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look to fasteners for garments. The Commissioner further argued in the brief on appeal that a disengageable catch is a common everyday mechanical concept, however the court held that the Commissioner did not explain why a "catch" of unstated structure is such a concept, and why it would have made the claimed invention obvious.).

In this case the fields of endeavor in which the two products are positioned are even more distant than those that were discussed in the In re Clay, and In re Oetiker cases which were discussed above. The present invention is related to systems for cleaning dental tools. The Dabich reference refers to a counter weight cover assembly which is utilized in prefabricated pits located in aircraft docking stations. The fields are not even remotely connected. It would simply be irrational for a person of skill in the art to look to the field of airport hangar construction for information regarding how to connect the lid of a cleanings cassette, even if such a reference was found there would be no motivation to combine the teachings of these references with teachings from significantly distant fields of endeavor.

The Dabich reference is not within the field of Applicant's endeavor and is not reasonably pertinent to the particular problem with which the inventor was concerned. A person of ordinary skill, seeking to solve a problem of would not reasonably be expected or motivated to look to airport hangar construction for information related to dental instrument cleaning devices. In as much as the present invention is not related to the field of art from which the Examiner has

cited, it is not proper for an objection which utilizes a reference from a non-analogous field of art to be utilized.

22. The Examiner has rejected claims 6-7, 9-10 and 14 as being unpatentable over Ochs as applied to claims 2 and 6 and further in view of Spencer, et al.

Applicant respectfully disagrees with the Examiner's rejection of these claims as being obvious modifications of the teachings from the Ochs and the Spencer references. As a preliminary matter there is no motivation or suggestion in the references themselves to combine these references to arrive at the claimed combination and this combination even if combined fails to include each and every feature that is set forth in the claims.

A fundamental requirement for the finding of obviousness is that there must be a suggestion or motivation within the references themselves to teach doing what the Applicant has done. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP §2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See also In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000), Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999) (The level of skill in the art cannot be relied upon to provide a motivation to combine references).

In this instance there is no motivation to combine the Ochs references and the Spencer references. As the Examiner has stated there is no explicit teaching in the Ochs reference that teach the use of this rack with a multiple cassettes with hinged lids. Similarly, the Spencer reference never teaches the use of the cassettes in that reference together with a rack system. The references themselves simply do not teach this combination. While it may be possible that

the two items could be combined there is no suggestion or motivation in the references themselves to arrive at such a combination. Therefore, Applicant respectfully submits that the combination cited by the Examiner is not taught or suggested by the prior art and thus should be withdrawn.

Even if this combination were properly combinable this combination of references fails to teach each and every feature which is present in the claims as currently amended. As has been discussed previously, claim 6 has been canceled; and claim 2 from which claim 7 depends directly and from which claims 9, 10 and 14 depend indirectly has been amended to include a variety of features and limitations which are not found in the Ochs or the Spencer references. Among these limitations is the requirement that the transport rack of the invention include flanges with holes. Neither the Ochs or the Spencer references teach this limitation. In as much as these features are not included in this combination of references, Applicant respectfully requests that the Examiner's rejection of these claims be withdrawn.

23. The Examiner has rejected claims 15-16 under 35 USC §103(a) as being unpatentable over Ochs as applied to claim 2 and in further view of Spencer, et al.

Applicant has amended these claims and maintains that these claims as currently amended are not rendered obvious in view of the combination cited by the Examiner. As is described above, claim 2 of the application as filed has been amended to contain a variety of features which are not included in the Ochs or the Spencer references or in the combination thereof. In particular this combination of references fails to teach the presence of horizontally disposed side flanges attached to the tops of the opposing sidewalls of the transport rack, each of these flanges having at least one hole therein. Claims 15 and 16 each depend from claim 2. In as much as claim 2 includes these additional features which are not taught or described in the combination cited by the examiner, claims 15 and 16 are not rendered obvious in view of the references cited by the Examiner and Applicant respectfully requests that the Examiner withdraw the rejections of these claims as being obvious.

24. The Examiner has rejected claim 17 under 35 USC 103(a) as being unpatentable over Ochs as applied to claim 2 and in further view of Chen.

As discussed previously claim 2 as amended includes various features which are not present in the combination of the Ochs and Chen references. In particular this combination of references fails to teach the presence of horizontally disposed side flanges attached to the tops of the opposing sidewalls of the transport rack, each of these flanges having at least one hole therein. In as much as the combination cited by the examiner fail to include all of the claimed features of the invention, these claims are not obvious modifications of the combination of the Ochs and Chen references. Furthermore, there is no motivation or suggestion to combine theses

references, and as a result Applicant respectfully submits that the rejections of claim 17 should be withdrawn.

25. The Examiner has rejected claim 5 under 35 USC 103(a) as being unpatentable over Ochs as applied to claim 3 and further in view of Rouse and Jerge.

Applicant respectfully disagrees with the Examiner's rejection for the following reasons. As a first matter, claim 2 from which claim 5 depends has been amended and as a result now contains a variety of additional features namely, horizontally disposed side flanges attached to the tops of the opposing side walls of the transport rack, each of these flanges having at least one hole therein. The combination cited by the examiner fails to include all of these newly added features.

In addition the combination cited by the Examiner fails to include a variety of other features which are set forth in this claim. The Examiner has rejected this claim on the grounds that the Rouse reference teaches a *side handle* that includes a pair of horizontally disposed insertion rails each having an *outwardly* extending engagement connection, insertion rails attached to a front rail downwardly extending lever handle attached to the front rail and the insertion rails designed for insertion into the rack.

However, a close review of the Rouse reference in fact shows that the item identified by the Examiner as a side handle Fig 2:11 is in fact a cover for the tops of the dental burrs that are placed within the burr block holder. See Col 3 lines 42-61. This cover is connected by a pair of side members which each contain *inwardly* extending faceted boss which has a pair of *inwardly* extending teeth which move inward therefrom. See Col. 4 lines 8-15. The Rouse patent simply does not include a side handle with outwardly extending engagement connections as the Examiner has alleged. Therefore, the combination of the Rouse reference together with the Jerge reference and the Temple reference simply fails to include each and every feature that is set forth in claim 5.

The Rouse reference also teaches away from the use of an engagement pin and thus the combination with the Jerge patent which has been suggested by the Examiner is not an obvious modification. The Rouse reference teaches that the connection of the burr block cover to the burr block should take place with few additional parts and without the use of additional fastening devices. Rouse Col. 4 lines 44-45. Therefore, the Examiner's suggestion that it would have been obvious for a person of skill in the art to substitute the engagement pin of the Jerge reference for the engagement connection portions of the Rouse references is not supported and is specifically contradicted by the language of the Rouse patent itself.

For these reasons, Applicant respectfully submits that the claim 5 of the currently pending application is not rendered obvious by the combination of Temple, Rouse and Jerge as has been suggested by the Examiner.

26. The Examiner has rejected claim 8 under 35 USC 103(a) as being unpatentable over Ochs in view of Spencer as applied to claim 6 and further in view of Kudla.

Applicant respectfully disagrees with the Examiner's rejection for the following reasons. As a first matter, claim 2 from which claim 5 depends has been amended and as a result now contains a variety of additional features namely, horizontally disposed side flanges attached to the tops of the opposing side walls of the transport rack, each of these flanges having at least one hole therein. The combination cited by the examiner fails to include all of these newly added features.

In addition, the combination cited by the Examiner fails to include a variety of other features which are set forth in this claim. The Examiner has rejected this claim on the grounds that the Rouse reference teaches a *side handle* that includes a pair of horizontally disposed insertion rails each having an *outwardly* extending engagement connection, insertion rails attached to a front rail downwardly extending lever handle attached to the front rail and the insertion rails designed for insertion into the rack.

However, a close review of the Rouse reference in fact shows that the item identified by the Examiner as a side handle Fig 2:11 is in fact a cover for the tops of the dental burrs that are placed within the burr block holder. See Col 3 lines 42-61. This cover is connected by a pair of side members which each contain *inwardly* extending faceted boss which has a pair of *inwardly* extending teeth which move inward therefrom. See Col. 4 lines 8-15. The Rouse patent simply does not include a side handle with outwardly extending engagement connections as the Examiner has alleged. Therefore, the combination of the Rouse reference together with the Jerge reference and the Temple reference simply fails to include each and every feature that is set forth in claim 5.

The Rouse reference also teaches away from the use of an engagement pin and thus the combination with the Jerge patent which has been suggested by the Examiner is not an obvious modification. The Rouse reference teaches that the connection of the burr block cover to the burr block should take place with few additional parts and without the use of additional fastening devices. Rouse Col. 4 lines 44-45. Therefore, the Examiner's suggestion that it would have been obvious for a person of skill in the art to substitute the engagement pin of the Jerge reference for the engagement connection portions of the Rouse references is not supported and is specifically contradicted by the language of the Rouse patent itself.

For these reasons, Applicant respectfully submits that the claim 5 of the currently pending application is not rendered obvious by the combination of Temple, Rouse and Jerge as has been suggested by the Examiner.

27. The Examiner has rejected claims 11-12 under 35 USC 103(a) as being unpatentable over Ochs in view of Spencer as applied to claim 6 and in further view of Wittrock, et al.

Applicant respectfully disagrees with the Examiner's rejection for the following reasons: As a first matter, claim 2 from which claims 11-12 depend has been amended and as a result now contains a variety of additional features namely, horizontally disposed side flanges attached to the tops of the opposing side walls of the transport rack, each of these flanges having at least one hole therein. The combination cited by the Examiner fails to include these features and thus a *prima facie* case of obviousness has not been made.

28. The Examiner has rejected claim 13 under 35 USC 103(a) as being unpatentable over Ochs in view of Spencer, et al., and Wittrock, et al., as applied to claim 11 and further in view of Dabich.

Applicant respectfully disagrees with the Examiner's rejection for the following reasons: As a first matter, claim 2 from which claim 13 depends has been amended and as a result now contains the requirement that horizontally disposed side flanges are attached to the tops of the opposing side walls of the transport rack. The combination suggested by the Examiner fails to include this provision and as a result a *prima facie* case of obviousness has not been made.

Furthermore, the inclusion of Dabich is improper. The Dabich reference is non-analogous prior art. Only references from arts analogous to that of the claimed invention may comprise prior art to the invention. A reference will only be analogous art if: 1) it is from the same field of endeavor as the claimed invention; or 2) it is from a different field of endeavor, but the reference is reasonably pertinent to the particular problem solved by the inventor. In re Oetiker, 977 F.2d 1443, 1446-47 (Fed. Cir. 1992); In re Clay, 966 F.2d 656, 658-89 (Fed. Cir. 1992). In the In re Clay case, the subject claims were directed to a process which improved removal of oil products from storage tanks. The Examiner in that case cited a patent directed to improving production of oil from underground formations. The Federal Circuit held that the cited patent as not analogous art even though the cited patent and subject application both related to the oil industry.

"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d

436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993).

In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992) (Applicant claimed an improvement in a hose clamp which differed from the prior art in the presence of a preassembly "hook" which maintained the preassembly condition of the clamp and disengaged automatically when the clamp was tightened. The Board relied upon a reference which disclosed a hook and eye fastener for use in garments, reasoning that all hooking problems are analogous. The court held the reference was not within the field of applicant's endeavor, and was not reasonably pertinent to the particular problem with which the inventor was concerned because it had not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look to fasteners for garments. The Commissioner further argued in the brief on appeal that a disengageable catch is a common everyday mechanical concept, however the court held that the Commissioner did not explain why a "catch" of unstated structure is such a concept, and why it would have made the claimed invention obvious.).

In this case, the fields of endeavor in which the two products are positioned are even more distant than those that were discussed in the In re Clay case which was discussed above. The present invention is related to systems for cleaning dental tools. The Dabich reference refers to a double hinge counter weight cover assembly which is utilized in prefabricated pits which are found in aircraft docking stations. The fields are not even remotely connected. It would simply be irrational for a person of skill in the art to look to the field of airport hangar construction for information regarding how to connect the lid of a cleanings cassette.

The Dabich reference is not within the field of Applicant's endeavor and is not reasonably pertinent to the particular problem with which the inventor was concerned. A person of ordinary skill, seeking to solve a problem of would not reasonably be expected or motivated to look to airport hangar construction for information related to dental instrument cleaning devices. In as much as the present invention is not related to the field of art from which the Examiner has cited, it is not proper for an objection which utilizes a reference from a non-analogous field of art to be utilized.

Furthermore, in as much as this prior art reference is so far removed from the other references cited by the Examiner, there is no suggestion or motivation to combine these references.

**CONCLUSION**

Reconsideration and allowance of the application as amended is respectfully requested.

If the Examiner feels it would advance the application to allowance or final rejection, the Examiner is invited to telephone the undersigned at the number given below.

DATED this 11<sup>th</sup> day of January 2006

Very respectfully,

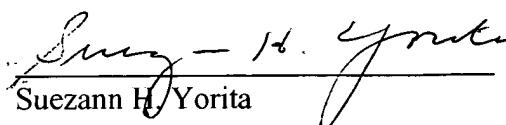
  
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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service on the below date as first class mail in an envelope addressed to:

Mail Stop Amendment  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

DATE: January 11, 2006

  
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Suezann H. Yorita